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In re Application of
DESURMONT, Guillaume et al.
Application No.: 09/937,090
PCT No.: PCT/FR00/00614
Int. Filing Date: 14 March 2000
Priority Date: 24 March 1999
Attorney's Docket No.: 6680-010
For: METHOD OF COPOLYMERIZATION
AND RESULTING COPOLYMERS

NOTIFICATION
OF
DEFECTIVE REPLY

This is a notification in response to applicants' "Petition To Accept Executed Declaration and Power of Attorney Based On Failure To Receive Notification of Missing Requirements," filed with the Office on 23 April 2002.

BACKGROUND

On 14 March 2000, applicants filed international application PCT/FR00/00614, which claimed a priority date of 24 March 1999. A copy of the international application was transmitted to the United States Patent and Trademark Office (USPTO) on 28 September 2000. On 19 September 2000, a demand for international preliminary examination was filed, prior to the expiration of nineteen months from the priority date. As such, the deadline for entry into the national stage in the United States was thirty months from the priority date, or 24 September 2001.

On 21 September 2001, applicants filed a transmittal letter for entry into the national stage in the United States, accompanied by, *inter alia*, the basic national fee.

On 09 November 2001, the Office mailed a Notification of Missing Requirements (Form PCT/DO/EO/905), indicating, *inter alia*, that an oath or declaration of the inventors in compliance with 37 CFR 1.497(a)-(b) and the surcharge for filing the oath or declaration after thirty months were required. The Notification set a two month extendable period for reply.

On 23 April 2002, applicants filed the instant petition requesting that the Office reset the time period for reply so that it starts on the date when the correspondence was received by the applicant, instead of on the mail date. The petition included a certificate of first class mailing indicating the correspondence had been deposited with USPS on 12 April 2002.

DISCUSSION

Petition To Reset Time Period For Reply

A petition to reset the time period for reply must be (1) timely filed, (2) demonstrate significant delay, (3) present evidence, (4) state when the communication was received and (5) be signed.

Items (1), (2), (4) and (5) have been met. Applicants filed the petition within two weeks of when they claim the correspondence was received. Of the two month period for reply, more than a month had elapsed. Mr. Levi stated that the communication was received on 03 April 2002 and signed the petition.

Item (3) has not been satisfied. Applicants indicate that the envelope from the Notice of Missing Requirements was included with the petition, but it is not attached and is not listed on the transmittal letter.

As the petition cannot be granted without evidence of when the correspondence was received, the fee for a four month extension of time will be charged to Deposit Account No. 50-0521, as authorized by the petition.

Declaration

The declaration submitted on 23 April 2002 does not comply with 37 CFR 1.497(a)-(b). The declaration includes two pages numbered 3, which both identify Yasuda and Malinge, but are separately signed by the inventors. This suggests that the declaration that was filed is in fact a composite declaration assembled from the separately executed declarations of Yasuda and Malinge. Because the complete declaration that was executed by Yasuda or Malinge has not been furnished, the requirements under 37 CFR 1.497(a) have not been satisfied.

Additionally, it is noted that the declaration appears to have been modified subsequent to its execution by the inventors, namely the header of the page 3 with the date stamp affixed has been redacted. "The wording of an oath or declaration cannot be amended, altered or changed in any manner after it has been signed." MPEP §602.01. See MPEP §605.04(a).

Applicants were charged a \$130 petition fee. There is no petition fee for petitions under 37 CFR 1.181. The fee will be refunded to deposit account no. 50-0521.

CONCLUSION

For the above reasons, applicants' petition under 37 CFR 1.181 is **DISMISSED** without prejudice.

Applicants are required to submit a declaration in compliance with 37 CFR 1.497 within a time limit of **ONE (1) MONTH** from the mail date of this Notification or within the time remaining in the response set forth in the Notification of Missing Requirements (Form PCT/DO/EO/905), whichever is longer. No extension of this time limit may be granted under 37 CFR 1.136(a), but the period for response set in the Notification of Missing Requirements may be extended up to a maximum of five months. **FAILURE TO PROPERLY RESPOND WILL RESULT IN ABANDONMENT.** Any request for reconsideration of this decision should include a cover letter entitled "Response to Notification of Defective Response."

Any further correspondence with respect to this matter should be addressed to the Assistant Commissioner for Patents, Box PCT, Washington, D.C. 20231, with the contents of this letter marked to the attention of the Office of PCT Legal Administration.



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